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SUBJECT: PARLIAMENT SET TO PASS ANTI-MONEY LAUNDERING BILL

REF: LILONGWE 66

¶1. Summary: Post's efforts to promote passage of anti-money laundering (AML) legislation appear to be bearing fruit. Legislators signaled their intention this week to pass the bill in next month's parliamentary session, and are working with government to resolve their remaining issues with the bill. End summary.

¶2. Following a Mission-sponsored seminar in January for key decision makers (reftel), the Malawi parliamentary legal affairs committee this week organized its own AML workshop, with assistance from USAID. Millennium Challenge-funded U.S. Treasury and Justice Department representatives Carol Kelley and Susan Smith served as expert advisors to the Committee. Kelley and Smith outlined the importance of the legislation for bringing Malawi into line with international norms, and explained to parliamentarians how an AML regime works in practice in other countries. They also offered ideas for further changes to the draft bill that would bring it in line with the intent of parliament as well as best practices. The parliamentarians then held discussions with government representatives to clarify a number of issues.

¶3. The proposed legislation will establish a regulatory regime for reporting suspicious transactions of money laundering and terrorist financing; create a financial intelligence unit (FIU) to analyze those reports; and establish confiscation procedures. Parliamentarians and government representatives participating in the seminar expressed optimism that the draft bill would be enacted as early as the April session.

¶3. Among the issues discussed in depth were the type of FIU that Malawi would create, the location of that unit, and the process of appointment and dismissal for its director. As reported in reftel, the FIU is a sensitive issue, given Malawi's history of abuse of a forfeiture law under the Banda dictatorship.

¶4. Parliamentarians reached consensus that the FIU should be employ an "administrative" rather than a "law enforcement" model, i.e., that the FIU would collect and analyze intelligence and then hand it over to police for further investigation, arrest and prosecution. They also supported the view that the FIU should be an independent agency of government, and not be attached to another government ministry, and the FIU director should be nominated by the

president and confirmed by the parliamentary public appointments committee.

¶5. This new legislation will require harmonization with revisions to Malawi's penal code (slated for amendment during this parliamentary session) and draft terrorism legislation. Our Millennium Challenge advisors will continue to work with the parliamentary draftsman and key committee members to provide advice on refining the texts.

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